

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

YOLANDA IRVING, et al.,	.	CASE NO. 5:22-CV-68-BO
Plaintiffs,	.	ELIZABETH CITY, NC
	.	FEBRUARY 14, 2023
V.	.	
	.	
THE CITY OF RALEIGH, et al.,	.	
Defendants.	.	
. . . . .	.	

TRANSCRIPT OF MOTIONS HEARING  
BEFORE THE HONORABLE TERRENCE W. BOYLE  
JUDGE, UNITED STATES DISTRICT COURT

APPEARANCES:

FOR THE PLAINTIFFS: ELIZABETH SIMPSON, ESQUIRE  
ABRAHAM RUBERT-SCHEWEL

FOR THE DEFENDANT: DOROTHY KIBLER, ESQUIRE  
CITY OF RALEIGH AMY PETTY, ESQUIRE

FOR THE DEFENDANT: JASON BENTON, ESQUIRE  
ABDULLAH

FOR THE DEFENDANT: NORWOOD BLANCHARD, III  
ROLFE

FOR THE DEFENDANT: ALAYNA M. POOLE, ESQUIRE  
RPD OFFICERS

FOR THE DEFENDANT: LESLIE PACKER, ESQUIRE  
SEU OFFICERS

COURT REPORTER: MS. SANDRA A. GRAHAM, CVR-CM

Proceedings recorded by stenomask, transcript produced from  
dictation.

S. Graham & Associates  
Court Reporting Services  
P.O. Box 385  
Elizabeth City, NC 27907-0385  
(252) 264-4646 [sgrahamassoc@gmail.com](mailto:sgrahamassoc@gmail.com)

1       **THE COURT:** Good morning.

2       **COUNSEL:** Good morning.

3       **THE COURT:** What motions do the Defendants have? I'll hear  
4 those first. Ms. Petty.

5       **MS. PETTY:** Good morning, Your Honor.

6       **THE COURT:** Good morning.

7       **MS. PETTY:** I represent the City of Raleigh, and the City  
8 has two motions for a protective order, and someone correct  
9 me if I'm wrong, the Selective Enforcement Unit Officers  
10 have a pending Motion to Dismiss and for a Consent Order  
11 extending specific amount of time regarding the discovery,  
12 and I believe that's it, Your Honor.

13       **THE COURT:** All right. Well, I'll hear you on those.

14       **MS. PETTY:** Your Honor, just by way of a brief background,  
15 the events in this case arose out of a search warrant  
16 issued on March 21st, 2020 for 1628 Apartment B Burgundy  
17 Street in Raleigh.

18       **THE COURT:** I thought it was Apartment A.

19       **MS. PETTY:** Well, Your Honor the search warrant was for  
20 Apartment B, but the case concerns not only the entry into  
21 Apartment B but also the entry into the adjacent apartment,  
22 which was Apartment A.

23       **THE COURT:** So the search warrant was for B or for A?

24       **MS. PETTY:** For B.

25       **THE COURT:** And they entered A?

1       **MS. PETTY:** Entered B and A.

2       **THE COURT:** Okay.

3       **MS. PETTY:** Both of them. And as the -- the apartments are  
4 next door to one another.

5       **THE COURT:** Are there different people living in A and B?

6       **MS. PETTY:** Yes, sir, they are.

7       **THE COURT:** Not one family.

8       **MS. PETTY:** That's correct.

9       **THE COURT:** Different families?

10       **MS. PETTY:** That's correct, Your Honor.

11       **THE COURT:** So there was no search warrant for A?

12       **MS. PETTY:** That is correct.

13       **THE COURT:** Okay.

14       **MS. PETTY:** And as officers approached that morning, or  
15 excuse me, that afternoon, out on a stoop --

16       **THE COURT:** What time of day was this?

17       **MS. PETTY:** I believe it was around four o'clock.

18       **THE COURT:** In the afternoon.

19       **MS. PETTY:** Yes, sir.

20       **THE COURT:** Okay.

21       **MS. PETTY:** It was later in the afternoon. And that day  
22 there were four teenagers out on a stoop in front of the  
23 two apartments, Apartment B and A, and when the officers  
24 approached, two of the teenagers ran into Apartment B,  
25 which, again, is the apartment that the officers had the

1 search warrant for. Two of the teenagers ran into  
2 Apartment A, and -- excuse me, Your Honor. In Apartment B  
3 one of those teenagers ran up the stairs yelling SWAT,  
4 SWAT, SWAT to the occupants that were upstairs in Apartment  
5 B. Apartment A, two teenagers also ran into A as the  
6 officers approached. They went upstairs to that apartment  
7 and informed the occupants there that the police were here.

8 **THE COURT:** Thank you for helping me with the facts of it.  
9 What day of the week was March 2nd?

10 **MS. PETTY:** It's March 21st, Your Honor. Excuse me, May  
11 21st. I apologize.

12 **THE COURT:** Oh, okay. May 21st, what day of the week was  
13 that?

14 **MS. PETTY:** I am not sure. I think it was a week -- I'm  
15 fairly certain it was a weekday, Your Honor.

16 **THE COURT:** So the scene is it's a weekday and it's four  
17 o'clock in the afternoon. And I'm just taking a guess that  
18 the apartments are two stories, that there are bedrooms  
19 upstairs and living rooms downstairs.

20 **MS. PETTY:** You're correct, Your Honor.

21 **THE COURT:** And so who's upstairs in the bedroom?

22 **MS. PETTY:** In Apartment B, and I'm sure plaintiffs will  
23 correct me if I'm wrong, in Apartment B is a mother, one of  
24 her children who is disabled and her daughter. So that's  
25 Apartment B. They're upstairs.

1       **THE COURT:**   They're upstairs.

2       **MS. PETTY:**   They're upstairs.

3       **THE COURT:**   In the bedroom.

4       **MS. PETTY:**   In a bedroom or in a hallway, yes.

5       **THE COURT:**   Okay.

6       **MS. PETTY:**   And then in Apartment A there are a brother and  
7       a sister in the upstairs of Apartment A in a bedroom.

8       **THE COURT:**   Children?

9       **MS. PETTY:**   They -- well, some of them were adults, 18 or  
10       older.

11       **THE COURT:**   Okay.   But it's four o'clock in the afternoon  
12       on, you think, a weekday and they're in a bedroom?

13       **MS. PETTY:**   Correct, yes.

14       **THE COURT:**   Okay.

15       **MS. PETTY:**   Yes.   And I was just informed it was a  
16       Thursday.

17       **THE COURT:**   Okay.

18       **MS. PETTY:**   May 21st.

19       **THE COURT:**   So these four young people, individuals, go  
20       into their respective houses and run upstairs to the  
21       bedroom?

22       **MS. PETTY:**   And inform the occupants in one form or  
23       another that the police are here.

24       **THE COURT:**   Okay.

25       **MS. PETTY:**   And so the police enter the -- enter the

1 apartment, again at Apartment B --

2 **THE COURT:** You said they entered, but how did they  
3 announce or how did they present their attendance there. I  
4 mean, did they kick the door down and say, hey, here we  
5 are. Or did they turn a siren on or did they have a loud  
6 speaker, or did they ring the doorbell?

7 **MS. PETTY:** Well, in Apartment B the door was left open,  
8 and the police ran up to the door and announced themselves,  
9 police, search warrant; police, search warrant; police,  
10 search warrant.

11 **THE COURT:** And that's the residence that they had a search  
12 warrant for?

13 **MS. PETTY:** That's correct, Your Honor. That's correct.  
14 And in Apartment A the door --

15 **THE COURT:** Are different families living in these two  
16 apartments?

17 **MS. PETTY:** Yes. Yes, Your Honor.

18 **THE COURT:** Okay.

19 **MS. PETTY:** The Walton family and the Irving family.

20 **THE COURT:** Walton?

21 **MS. PETTY:** Walton.

22 **THE COURT:** And are they in B or A?

23 **MS. PETTY:** Walton was in A.

24 **THE COURT:** Okay.

25 **MS. PETTY:** And Irving was in B.

1       **THE COURT:** Thank you. So this is the scene. It's four  
2 o'clock in the afternoon, it's a Thursday. It's in May,  
3 you say, May 21st so it's about summertime.

4       **MS. PETTY:** Yes, Your Honor.

5       **THE COURT:** And where in Raleigh is this? I'm not  
6 thoroughly familiar with Raleigh, but I know some parts of  
7 it. Is it in South Raleigh?

8       **MS. PETTY:** Yes. It is Your Honor, Southeast Raleigh.

9       **THE COURT:** Is it off Martin Luther King Drive?

10       **MS. PETTY:** I don't know the name of the road that it's off  
11 of.

12       **THE COURT:** Raleigh Road?

13       **MS. PETTY:** I see Ms. Simpson nodding.

14       **THE COURT:** Your partner knows.

15       **MS. PETTY:** Okay.

16       **MS. KIBLER:** Yes, Your Honor. It's Raleigh Boulevard.  
17 It's one of the side roads off of Raleigh Boulevard.

18       **THE COURT:** Okay. All right. It's on the way down to the  
19 Beltline.

20       **MS. KIBLER:** It's closer to Crabtree Boulevard. You've got  
21 to take Crabtree to get to Capital, yes, sir.

22       **THE COURT:** Okay. No, it's not around Capital. It's going  
23 South. It's South Saunders in that area, isn't it?

24       **MS. KIBLER:** So exactly -- if you're headed out of town on  
25 Capital Boulevard if you'll pass the --

1       **THE COURT:** Capital Boulevard is going north.

2       **MS. KIBLER:** Yes, it is going North out of town. And  
3 before you get to the Beltline there's a little shopping  
4 center. That's where Crabtree Boulevard is.

5       **THE COURT:** WakeMed is there.

6       **MS. KIBLER:** Closer to downtown. It's a little bit closer  
7 to downtown. If you know where the bus station is, the  
8 Greyhound bus station.

9       **THE COURT:** You mean before the country club in there?

10       **MS. KIBLER:** Even further. Closer to downtown. It's  
11 probably three miles or so from the central of downtown,  
12 kind of my rough estimate.

13       **THE COURT:** Where the old bus station was?

14       **MS. KIBLER:** The new bus station is operating there at the  
15 corner of Crabtree and Capital Boulevard. And if one turns  
16 on Crabtree, and then turns right on Raleigh Boulevard,  
17 it's past -- there's an apartment complex past a little  
18 neighborhood there off of Raleigh Boulevard.

19       **THE COURT:** Okay. I don't really know it, but all right.  
20 High crime area?

21       **MS. KIBLER:** Very.

22       **THE COURT:** Okay.

23       **MS. PETTY:** And, Your Honor, today we have -- as I  
24 mentioned, the City has two motions for a protective order.

25       **THE COURT:** How many cops are involved? How many guys show



1 up, men or women, show up for the search warrant?

2 **MS. PETTY:** We have ten and ten Selective Enforcement Unit  
3 Officers.

4 **THE COURT:** So they have five or six cars?

5 **MS. PETTY:** They actually rode in a van together.

6 **THE COURT:** All in one unit?

7 **MS. PETTY:** One unit. All ten officers along with --

8 **THE COURT:** With ten police in it?

9 **MS. PETTY:** In a white, a white van, yes, Your Honor.

10 **THE COURT:** Okay. All right. And that was it for the  
11 engagement, just the ten officers?

12 **MS. PETTY:** Well, there were some detectives involved.

13 **THE COURT:** So there were more than ten?

14 **MS. PETTY:** Correct, yes.

15 **THE COURT:** Okay.

16 **MS. PETTY:** But as far as the initial entry into the homes  
17 -- and two of the detectives actually out of that ten --  
18 excuse me, two of the SEU officers out of that ten peeled  
19 off to the back side of the apartment building.

20 **THE COURT:** Was there a back entrance?

21 **MS. PETTY:** There was. And they had been informed that one  
22 of the possible suspects had gotten into a vehicle in the  
23 back of the apartment.

24 **THE COURT:** Is there parking or access in the back?

25 **MS. PETTY:** There is, yes.

1 **THE COURT:** So I'm assuming these apartments are roughly a  
2 thousand square feet, that there are two bedrooms upstairs  
3 and just a living room, kitchen, dining room on the base  
4 level and maybe one or one and a half or two bathrooms.

5 **MS. PETTY:** I don't believe there was a bathroom on the  
6 bottom floor, but that's the general idea, yes, Your Honor,  
7 of the setup in each apartment.

8 **THE COURT:** Okay.

9 **MS. PETTY:** Our first motion, Your Honor, regards the Chief  
10 of Police's deposition. And that's at docket entry 131.  
11 And we filed a -- plaintiffs noticed the Chief's  
12 deposition, and we filed a motion for a protective order to  
13 prevent her deposition. And it's important for the Court  
14 to know the things that are not disputed in regards to this  
15 motion are that, first the Chief is just being sued in her  
16 official capacity and that she did not begin her position  
17 with the City until more than a year after the operative  
18 event here, and in her position she qualifies as a high  
19 ranking government official. And what that means, for the  
20 plaintiffs to be able to take her deposition the burden is  
21 on them to show, not only that she has unique firsthand  
22 knowledge of material facts, but also that there are not  
23 less burdensome means.

24 **THE COURT:** Was she even in the police department in  
25 Raleigh at the time of this?

1 **MS. PETTY:** She was not.

2 **THE COURT:** She was serving in some other capacity in some  
3 other place?

4 **MS. PETTY:** Yes, that's correct, Your Honor.

5 **THE COURT:** Okay.

6 **MS. PETTY:** That's accurate. And because of that fact she  
7 doesn't have firsthand knowledge of what happened here.

8 **THE COURT:** It's like suing the United States and  
9 requesting the deposition of the President?

10 **MS. PETTY:** That's similar to that, yes, yes, Your Honor.  
11 And in their response plaintiffs claim the need to question  
12 her about the Raleigh Police Department search warrant  
13 execution policy and how it's carried out. And certainly  
14 the Chief does not have unique knowledge about this topic.  
15 And certainly there are less burdensome means to obtain  
16 that information, such as by a 30(b)6 deposition of the  
17 Raleigh Police Department. And I would also like to point  
18 out that in discovery we have given the plaintiffs the  
19 current and historical versions of that search warrant  
20 execution policy. Also in deposition --

21 **THE COURT:** Who signed the search warrant, a magistrate  
22 downtown or a Superior Court Judge or a District Judge?

23 **MS. PETTY:** It was a magistrate.

24 **THE COURT:** So you just went to the courthouse and whoever  
25 the duty mag was got it and signed it.

1 **MS. PETTY:** As far as we are aware, yes, Your Honor.

2 **THE COURT:** How long was the transition between signing the  
3 search warrant and executing it? It's supposed to happen  
4 pretty quickly, isn't it?

5 **MS. PETTY:** It was the same day, Your Honor. It was the  
6 same day.

7 And in depositions the plaintiffs have questioned the  
8 detectives and the officers about that policy, about how  
9 they carried out, how they execute warrants. So they've  
10 obtained this information. And any further discovery that  
11 they need is exactly what a 30(b)6 deposition is for. And  
12 it certainly is a less burdensome means of obtaining that  
13 information than making the Chief of Police sit for a  
14 deposition. So for these reasons we're requesting an order  
15 that precludes her deposition. Thank you.

16 **THE COURT:** That's it for you?

17 **MS. PETTY:** On that motion, Your Honor. Would you like me  
18 to continue on our second motion?

19 **THE COURT:** Might as well.

20 **MS. PETTY:** Okay. Happy to do so.

21 Our second motion is also a Motion for a Protective  
22 Order, and it's at docket entry 152. And this concerns the  
23 30(b)6 deposition of the Raleigh Police Department. Your  
24 Honor, since the scheduling order was entered this past  
25 July, the parties have been engaged in the first phase of

1 discovery, and that is the discovery related to the  
2 individual defendants' liability. And that phase is  
3 currently set to end in less than a month, and the deadline  
4 for filing dispositive motions is at the end of March. And  
5 in December Emancipate NC, this is the organizational  
6 plaintiff here, noticed this 30(b)6 deposition of the  
7 Raleigh Police Department. And by looking at the topics  
8 for examination that they identify, it is evident that this  
9 deposition pertains to the City's liability, and the City's  
10 liability is not part of the discovery phase that we've  
11 been operating under for seven months or so. And if you  
12 think about how liability in a case such as this works,  
13 having that phase discovery makes sense because a  
14 constitutional violation is a predicate for a Section 1983  
15 claim against the City. And so the way the plaintiffs  
16 prove the constitutional violation is through the  
17 individual defendants' liability. And so the scheduling  
18 order envisions an orderly process where the individual  
19 defendants' liability is resolved first on dispositive  
20 motions and then if those are denied, the parties meet and  
21 propose a discovery plan on the City's liability. So  
22 having the individual officers' liability determined first  
23 as a minimum it's going to streamline the case and narrow  
24 the issues. At best it makes the second phase of discovery  
25 unnecessary. And Emancipate North Carolina suggests that

1 it's inequitable to preclude it from taking discovery of  
2 the City yet allow other defendants, the individual  
3 defendants, I might add, to take discovery of it. And I  
4 can't speak for the individual defendants positions, but  
5 I'll just point out that the time for the individual  
6 defendants to take discovery is right now. And the City  
7 itself has not served any discovery on Emancipate NC. So  
8 all we're requesting is that Emancipate NC just abide by  
9 the terms of the scheduling order. And that you order that  
10 this 30(b)6 deposition be taken during the next phase of  
11 discovery. Thank you.

12 **THE COURT:** Thank you.

13 **MS. SIMPSON:** Good morning, Your Honor, I'm Elizabeth  
14 Simpson on behalf of Emancipate NC and also all of the  
15 plaintiffs. I'll start just by going through the facts  
16 regarding that warrant that was written out and signed by  
17 the magistrate for 1628 B, the Irving household. The  
18 reason that the warrant was written that way was actually  
19 due to a combination of corruption and negligence. And  
20 that stemmed from the fact that this entire operation was  
21 from -- that came from a confidential informant named  
22 Dennis Williams who had provided bad information to a  
23 police detective Omar Abdullah who has now been indicted by  
24 the District Attorney of Wake County. And in this  
25 operation this deal was targeting a man named Marcus

1 Vanirvin who actually lived at 1620 B Burgundy Street,  
2 which was just around, very close to the teenagers who  
3 lived at 1628 B and 1628 A.

4 It seems to me that they were framing Mr. Vanirvin for  
5 trafficking amounts of heroin and were planning to plant  
6 brown sugar on him. But --

7 (Court reporter asked for attorney to speak louder)

8 **THE COURT:** If she wants to be recorded.

9 **MS. SIMPSON:** Of course, thank you.

10 So can you hear me better now?

11 COURT REPORTER: Please speak up.

12 **MS. SIMPSON:** I will try. I do have a soft voice.

13 **THE COURT:** The acoustics in this room are fantastic, and I  
14 haven't heard a word that you've said so far.

15 **MS. SIMPSON:** Let me start again then, Your Honor.

16 The reason that the officers were at 1628 B on that  
17 day was actually because of corruption and negligence. So  
18 there was a confidential informant named Dennis Williams  
19 who was conspiring with a lead detective Omar Abdullah who  
20 has now been indicted by the Raleigh Police Department.  
21 And their plan that day was to plant brown sugar on Mr.  
22 Vanirvin who lived at 1620 B Burgundy Street right next  
23 door the teenagers at 1628 B and A and to frame him for  
24 trafficking heroin. However they wrote on a search warrant  
25 1628 B even though the picture on the search warrant was a

1 picture of Mr. Vanirvin's house, a picture of a red door  
2 and a tree in front. So when they went to scout this,  
3 instead of going to the correct apartment, 1620 B with a  
4 red door, they approved the location of 1628 B with a tan  
5 door. As Ms. Petty indicated ten officers, SWAT officers  
6 ran past the correct apartment and up to the teenagers who  
7 were sitting out front of their two apartments and then  
8 went into their homes, into the privacy of their homes, the  
9 bedrooms, as you indicated. It was then the SWAT officers  
10 followed them in uninvited and not (inaudible), probably  
11 not knocking. The door was tried to be shut behind the  
12 teenagers and yet they went in anyway. So that's the  
13 context for all the things that happened.

14 So the deposition of the Police Chief stems from the  
15 fact that when this lawsuit was filed the Chief of Police  
16 got on the news and explained the warrant execution policy.  
17 And the way that she explained it was a way that did not  
18 comport with constitutional law. It was essentially, yeah,  
19 we knock, we announce, we go right in. And the correct way  
20 is that you knock, announce and allow the occupants of the  
21 home to realize what's happening and have a chance to  
22 permit entry before they are invaded upon. And so the  
23 deposition of the Chief was to find out if the person who  
24 was setting policy, the person who was a leader and  
25 describing the best practice of how to execute a warrant,



1 which is of course a very sensitive area. One of the most  
2 invasive things that we can do is go into a private home  
3 and have the government in there. That was the reason for  
4 the deposition. With that the motion for protective order  
5 was filed. There has been an opinion, as Ms. Petty said,  
6 they thought a 30(b)6 would be better. We did notice a  
7 30(b)6 and they moved for a protective order on that one as  
8 well.

9 The question about the two phases. You know, we would  
10 be happy to (inaudible) to discovery. I think there was an  
11 ambiguity in the scheduling order as to whether Claim 2 --  
12 that's the claim about no knock and quick knock warrants,  
13 whether that belongs in Phase 1 or Phase 2. And so that's  
14 something we're here today to get sorted out, the fact  
15 whether no knock quick knock warrant entry into private  
16 homes goes in the Phase 1 order.

17 **THE COURT:** Okay. Let me ask Mrs. Petty, how many  
18 plaintiffs are there? Putting aside the institutional  
19 plaintiff, whatever it's called, how many individual  
20 plaintiffs are there?

21 **MS. PETTY:** Ten.

22 **THE COURT:** Ten. So everyone who is on the scene?

23 **MS. PETTY:** Yes.

24 **THE COURT:** So where did the ten people come from? The  
25 four guys are out in the front, I guess they're plaintiffs?

1       **MS. PETTY:** That's correct.

2       **THE COURT:** And then the couple of people who were in the

3       bedrooms?

4       **MS. PETTY:** That is correct.

5       **THE COURT:** And then who else shows up as a plaintiff?

6       **MS. PETTY:** One of the mothers who resides in Apartment A

7       came on the scene, so she's a plaintiff.

8       **THE COURT:** She wasn't in the house?

9       **MS. PETTY:** She was not.

10       **THE COURT:** She's on the outside?

11       **MS. PETTY:** That's correct. She had gone to the grocery

12       store.

13       **THE COURT:** How do you -- did you want to tell me

14       something?

15       **MS. SIMPSON:** If I may. She came home in the midst of it

16       and was encountered as well.

17       **THE COURT:** What's that?

18       **MS. SIMPSON:** She came home in the middle of the raid and

19       was also encountered by the police.

20       **THE COURT:** Okay. When I want help I'll ask for it.

21       **MS. SIMPSON:** Okay, thank you.

22       **THE COURT:** Thank you though. Go ahead. I mean people

23       driving by? Don't you have to have some nexus with the

24       event?

25       **MS. PETTY:** This is true, Your Honor, yes.

1       **THE COURT:**   Okay.

2       **MS. PETTY:**   And, Your Honor, may I respond to a couple of  
3 things in response to their argument?

4       **THE COURT:**   Only if you think it's necessary.   It's up to  
5 you.

6       **MS. PETTY:**   I don't.

7       **THE COURT:**   Okay.   Who represents the other people, the  
8 rest of the people in here?   Who's representing the guy  
9 that was supposed to be corrupt and got fired?

10      **MR. BENTON:**   Your Honor, I represent Omar Abdullah, Jason  
11 Benton, Your Honor.

12      **THE COURT:**   Okay.   And he's got criminal charges pending  
13 against him?

14      **MR. BENTON:**   He does.

15      **THE COURT:**   Unresolved?

16      **MR. BENTON:**   Unresolved, Your Honor.

17      **THE COURT:**   How long have they been pending?

18      **MR. BENTON:**   They've been pending since -- he was indicted  
19 in July of last year.

20      **THE COURT:**   July of '22?

21      **MR. BENTON:**   Yes, sir, Your Honor, I believe that's  
22 correct.

23      **THE COURT:**   And of course it's state court so it crawls  
24 like a snail and barely gets where it's going.

25      **MR. BENTON:**   It's in state court.   He has been arraigned.

1 He has pled not guilty, and I believe his criminal defense  
2 attorney has been trying to set a trial date.

3 **THE COURT:** Who's his criminal defense attorney?

4 **MR. BENTON:** Your Honor, it's Christian Dysart and Ryan  
5 Willis.

6 **THE COURT:** Okay. And so correct me if I'm wrong, the  
7 district attorney still has absolute control over the  
8 calendar?

9 **MR. BENTON:** To my knowledge, yes, sir.

10 **THE COURT:** And therein lies the problem. So it could  
11 never come to a public trial, for all you know?

12 **MR. BENTON:** I would consult with Mr. Abdullah's criminal  
13 defense attorneys. I don't know the answer to that.

14 **THE COURT:** Okay. And because he's charged with a crime he  
15 claims that that impacts his ability to defend in this  
16 case?

17 **MR. BENTON:** Yes, Your Honor. We had moved for a stay, you  
18 might recall, previously. Your Honor denied a stay in its  
19 entirety and granted a limited stay as to discovery  
20 directed against my client except for a deposition.

21 **THE COURT:** So what's the status of the discovery with your  
22 client?

23 **MR. BENTON:** The plaintiffs have taken my client's  
24 deposition.

25 **THE COURT:** They have?

1       **MR. BENTON:** Yes, sir.

2       **THE COURT:** When was that?

3       **MR. BENTON:** That was December 15th, 2022.

4       **THE COURT:** Okay. And so that's all wrapped up?

5       **MR. BENTON:** That deposition is, yes, Your Honor.

6       **THE COURT:** And what happened in that deposition? Did he  
7 take the Fifth?

8       **MR. BENTON:** To some questions, yes.

9       **THE COURT:** Okay. Well, with his deposition you ought to  
10 be ready for trial in this case, right? That's the whole  
11 case.

12       **MR. BENTON:** Your Honor, there is a limited stay that  
13 applied to any other discovery at this level. I don't know  
14 what plaintiffs intend to direct towards him once that stay  
15 has lifted.

16       **THE COURT:** I mean you've got the plaintiffs' testimony,  
17 which you haven't deposed, right?

18       **MR. BENTON:** Pardon me?

19       **THE COURT:** You haven't deposed the plaintiffs.

20       **MR. BENTON:** Plaintiffs have been deposed, Your Honor.

21       **THE COURT:** All of the individual plaintiffs?

22       **MR. BENTON:** I believe that's correct.

23       **THE COURT:** All ten of them?

24       **MR. BENTON:** Yes, Your Honor.

25       **THE COURT:** Really?

1       **MR. BENTON:** Yes, Your Honor.

2       **THE COURT:** And what does that show, that they're nervous  
3 and upset?

4       **MR. BENTON:** They do allege psychological injury and  
5 trauma.

6       **THE COURT:** And that's it? They didn't have an heirloom  
7 busted or lose a month's rent or get put in jail or  
8 anything like that, right?

9       **MR. BENTON:** That's right, Your Honor.

10       **THE COURT:** Okay. So what are their damages?

11       **MR. BENTON:** They allege constitutional injury and they  
12 allege the psychological injury. And there is still  
13 discovery ongoing related to the psychological injury.

14       **THE COURT:** Okay. Who does that apply to, all ten of them,  
15 the babies included.

16       **MR. BENTON:** I believe all of them are contending some sort  
17 of trauma deriving from the encounter, Your Honor.

18       **THE COURT:** Okay. And if your guy was in trial next Monday  
19 here in Elizabeth City and he got called as the first  
20 witness to the stand, he would take the Fifth?

21       **MR. BENTON:** He would probably have to plead the Fifth to  
22 some of his questions, Your Honor.

23       **THE COURT:** That wouldn't look too good.

24       **MR. BENTON:** Right.

25       **THE COURT:** Okay. And you're Mr. Benton?

1       **MR. BENTON:** Yes, Your Honor.

2       **THE COURT:** Okay. Ms. Packer, who do you have in this  
3 fight?

4       **MS. PACKER:** I've got the ten SEU officers, the SWAT team.

5       **THE COURT:** Okay. Were they all in a group?

6       **MS. PACKER:** They were in a group of ten, and, as Ms. Petty  
7 said, two of them peeled off to go address the report that  
8 --

9       **THE COURT:** Who was in charge, actually officially  
10 executing the warrant?

11       **MS. PACKER:** The SWAT team.

12       **THE COURT:** The leader of the SWAT team?

13       **MS. PACKER:** Yes.

14       **THE COURT:** I mean the ninth and tenth person in the SWAT  
15 team are just there for dressing and somebody has got to be  
16 in charge if there are ten people.

17       **MS. PACKER:** There is somebody in charge.

18       **THE COURT:** And if somebody in charge says, either actually  
19 says or makes believe says, I'm here to execute a search  
20 warrant, let me in, here I come.

21       **MS. PACKER:** Well, Your Honor, that is what would  
22 ordinarily happen, but as Ms. Petty described, as they are  
23 approaching the unit they are compromised because --

24       **THE COURT:** You mean the four guys know they're coming?

25       **MS. PACKER:** Exactly. And the four guys run into both

1 units, and this is in the Complaint, screaming SWAT, SWAT,  
2 SWAT. So our officers then their presence has been made  
3 known. There's no stealth. They can't quietly approach.

4 **THE COURT:** There's no no knock. It's just follow the  
5 flow.

6 **MS. PACKER:** Exactly. This is not a no knock warrant case.

7 **THE COURT:** Right.

8 **MS. PACKER:** The officers then start yelling police, search  
9 warrant; police, search warrant. And there's no issue of  
10 knocking or breaking down a door. One door is left ajar  
11 and the other one is swinging shut.

12 **THE COURT:** And the four guys who ran into the two  
13 apartments were residents of those apartments?

14 **MS. PACKER:** All but one. One was a guest at the apartment  
15 that he ran into. He had been staying there for a few  
16 days.

17 **THE COURT:** Okay. But they were all residents?

18 **MS. PACKER:** Yes. And the officers had a warrant for one  
19 apartment. The other apartment they stopped on the  
20 threshold and they said we just want the two who ran in to  
21 come back out. And the young men came down with their  
22 hands up and then they say, may we come in? And they say,  
23 yes.

24 **THE COURT:** Okay.

25 **MS. PACKER:** So we actually have a pending motion to



1 dismiss if Your Honor would want to hear it.

2 **THE COURT:** I'm hearing it right now.

3 **MS. PACKER:** Yes, you are. Should I continue?

4 **THE COURT:** Yeah. I'm here, you're here.

5 **MS. PACKER:** We moved to dismiss Claim 8 initially which  
6 was the only claim in the Complaint that clearly addressed  
7 the SEU team, and that's claim of excessive force. And  
8 then in their response the plaintiffs said, no, our Claim 2  
9 is also directed to the SEU team even though it doesn't say  
10 that in the caption. In the caption it says it's directed  
11 to the City, the Mayor and the City Manager. But it is a  
12 claim addressed to the City arising out of the action of  
13 the officers in executing what plaintiffs like to call a no  
14 knock warrant. But I think as Your Honor understands the  
15 scenario, this is not a no knock warrant case. The whole  
16 purpose behind knocking is to let people in the dwelling  
17 know that the police are trying to get in, someone is  
18 trying to gain entry and it is the police. And in this  
19 instance their presence had already been announced by the  
20 young men who ran into both units, very loudly, just based  
21 on the language of the Complaint that says screaming. And  
22 then our officers said, police, search warrant; police,  
23 search warrant. So it's simply not a no knock warrant, and  
24 for that reason the second claim that's based on entry into  
25 the units should be dismissed.

1           And a Claim 8, which is the excessive force claim  
2           should also be dismissed because the only allegation of  
3           excessive force is that our officers were pointing their  
4           weapons at the various individuals they encountered. And  
5           the Fourth Circuit has clearly articulated, Your Honor,  
6           that it is reasonable for officers to point their firearms  
7           at unknown occupants when they are entering a dwelling for  
8           execution of a warrant, in this case a drug search warrant.  
9           We cited those cases in our briefing. The UNUS versus Kane  
10          case says that pointing firearms upon entry is reasonable  
11          and that it is necessary to gain control of a fluid  
12          situation and ensure the safety of all involved, not just  
13          the police, but others who may be involved. And we also  
14          cited the Bellotte versus Edwards case which also held that  
15          officers drawing their weapons upon entry is reasonable.  
16          And in that case it even involved entering the bedroom of a  
17          12-year-old girl who was pregnant on the premises.

18       **THE COURT:** So you've got cops coming in and yelling,  
19       police, search warrant and then they draw their guns and  
20       there's no threat of mortal injury at the time, so they  
21       might have a case on that.

22       **MS. PACKER:** They're approaching the unit with their  
23       weapons already -- these are shoulder weapons. They're  
24       approaching the unit --

25       **THE COURT:** What do you mean shoulder weapons?

1 **MS. PACKER:** They're holding -- you know they're like --

2 **MR. BENTON:** Long guns.

3 **MS. PACKER:** Yeah, long guns. They're assault rifles, but  
4 they're approaching with weapons already drawn.

5 **THE COURT:** Really.

6 **MS. PACKER:** As they're running towards the unit they're  
7 saying, police, search warrant; police, search warrant. We  
8 have all this -- and this isn't pertinent to the Motion to  
9 Dismiss, but just so you know we have all this on body worn  
10 video camera. They're approaching with the weapons drawn,  
11 not aiming at an individual but being ready should the need  
12 arise and then as they encounter people and assess that  
13 they are not a threat, the weapons are put down.

14 **THE COURT:** Okay.

15 **MS. PACKER:** But the Fourth Circuit clearly approves of the  
16 approaching with weapons --

17 **THE COURT:** How long ago, because it's a rapidly migrating  
18 law in this circuit.

19 **MS. PACKER:** I think it's 2009 and '11. I can check that.

20 **THE COURT:** Whew, that's not worth anything.

21 **MS. PACKER:** I haven't found any contrary.

22 **THE COURT:** Seen any en bancs lately?

23 **MS. PACKER:** You know, Your Honor, I will submit that it is  
24 reasonable for officers who are approaching to execute a  
25 drug search warrant when they don't know how many people

1 they are going to encounter or who those people might be,  
2 and whether those people might be armed, it is reasonable  
3 for them to approach. And that's the standard is  
4 reasonableness, based on what the officers know, not what  
5 is learned after the fact but what they know as they are  
6 approaching.

7 **THE COURT:** Well, the problem is, some of what they know,  
8 if not all of what they know, was corrupt.

9 **MS. PACKER:** They didn't know that. They didn't know that  
10 at all. They knew they had a valid search, a magistrate  
11 issued valid search warrant for Apartment B. And the  
12 detective, Mr. Abdullah, told them earlier that day --

13 **THE COURT:** Was he along on the ride?

14 **MS. PACKER:** He -- he did scouting.

15 **THE COURT:** No, I mean is he in the group that's going in?

16 **MS. PACKER:** Yes, Your Honor.

17 **THE COURT:** And he's the crook?

18 **MS. PACKER:** Allegedly.

19 **THE COURT:** Yeah.

20 **MS. PACKER:** But the SEU officers know none of this.  
21 They're not even his colleagues on the drug vice squad,  
22 They're just the guys that go in and execute the warrant.  
23 So we move for dismissal of the claims against them.

24 **THE COURT:** Against the ten?

25 **MS. PACKER:** Against the ten.

1       **THE COURT:** Okay. Is that it?

2       **MS. PACKER:** On that issue, yes, sir.

3       **THE COURT:** Do you want to be heard?

4       **MR. RUBERT-SCHEWEL:** Yes, Your Honor. Abraham Rubert-  
5       Schewel on behalf of the Plaintiffs. We believe that these  
6       are all factual disputes that should be addressed at  
7       summary judgment. As the plaintiffs, sorry, as the  
8       defendants pointed out, discovery is set to end in this  
9       case in approximately two or three weeks and then their  
10      briefs will be due in approximately 45 days. A couple of  
11      facts that were not mentioned is that Officer Abdullah was  
12      driving the van that all the SEU officers were in. Also,  
13      the basis for the warrant was an alleged sale that had  
14      occurred the day before at 1620, the wrong address, or the  
15      other address. The next day, prior to executing the  
16      warrant, the officers conducted a second controlled buy,  
17      also at 1620. And during the controlled buys what we know  
18      is the practice of the vice officers as well as the SEU  
19      officers who are the ones who ran into the homes, is to  
20      watch this app called a 10-21 app where they can see  
21      whether a sale or not is occurring. And what we know from  
22      officers' testimony and from discovery is that almost every  
23      single one of these times when they were viewing this app  
24      no sale was actually observed and no sale can actually be  
25      heard. So we would --

1 **THE COURT:** Who's promoting this, Abdullah? Is this the  
2 evidence that he's using to support getting the no knock  
3 warrant?

4 **MR. RUBERT-SCHEWEL:** Exactly, Your Honor.

5 **THE COURT:** Okay.

6 **MR. RUBERT-SCHEWEL:** Yes, it's the evidence he's using --

7 **THE COURT:** So he's cooking this up?

8 **MR. RUBERT-SCHEWEL:** He's cooking this up, but the vice  
9 officers who are part of his team also have access to this  
10 app and are also watching this app in livestream. Now, not  
11 only are they watching it, we have testimony from vice  
12 officers and the video, body cam video, that shows SEU  
13 officers, the officers represented by Ms. Packer, watching  
14 the app also. So they are also watching it and seeing that  
15 a sale is not actually occurring. So the question of  
16 whether their knowledge is a question of fact that also  
17 should be determined at summary judgment.

18 Now, to Claim 2, the illegal entry no knock, quick  
19 knock claim, the officers approach. There is a 12-year-  
20 old, a 15-year old, a 17-year old and an 18-year old  
21 standing in front of their homes. They would run into  
22 their homes. Apartment B, the door closes. At that point  
23 the officers should have knocked and requested or at least  
24 announced their entry. Instead what they did is they  
25 opened the door and they went in. Now United States v.

1 Banks is a Supreme Court case that discusses this. And  
2 Banks is an exigency case. The defendants here argue  
3 exigency. The exigency in Banks was the destruction of  
4 evidence. That's the same exigency they argue here. In  
5 Banks they said the exigency is drugs. You have to knock  
6 and wait 15 to 30 seconds if you fear destruction. That's  
7 what the SEU officers should have done here. These were  
8 kids who were not suspects, who had not been identified in  
9 any briefing at all. No one knew what they looked like or  
10 knew what they should have been running after. They just  
11 ran after them and went right in. The second apartment, as  
12 you noted, was not on the warrant. From the body camera  
13 we're not able to actually tell if the door was open or  
14 not, but they did stand there. They then pushed the door  
15 open. I'm not saying you couldn't tell if it was cracked  
16 or not. And then with, you know, guns they had been  
17 chasing these kids. They yell and they say, the two who  
18 are up there come down. Can we come in? And these are  
19 kids who at that point feel as if they have no choice but  
20 to respond to these officers and let them in. So the  
21 second claim against the SEU officers is Claim 8. This is  
22 the excessive force claim for pointing their weapons at the  
23 kids at the entry to the home, as they entered the home, as  
24 they go upstairs. And we have in our Motion to Strike,  
25 which we filed yesterday, the defendants attached portions

1 of our clients' deposition testimony to that motion, which  
2 is improper in a 12(b)6 motion, so we move to strike that  
3 deposition testimony. And to our motion we attached, so  
4 you could see, pictures of the body cam. And the pictures  
5 show officers with assault rifles pointed at our clients as  
6 they have hands raised, as they have their hands in the  
7 air, and as they are sitting on the ground with their hands  
8 raised. And you can see them pointing at our clients'  
9 faces as they are sitting like this or as they are standing  
10 like this as they are following instructions. We also  
11 brought the data camera with us today if you'd like to see  
12 it. So we maintain that Claim 2 and Claim 8 we have raised  
13 sufficient issues of material facts.

14 Now, we also have filed a Motion to Compel. And if  
15 Your Honor will allow it, I will briefly speak to that.

16 **THE COURT:** Go ahead.

17 **MR. RUBERT-SCHEWEL:** We believe that we have resolved a  
18 majority of these issues thank to defendants. We had a  
19 meet and confer, and they have agreed to turn over or have  
20 already turned over almost everything. The items that are  
21 outstanding are text messages and for an illustrative  
22 purpose I have with me here today group chat text messages  
23 that they've turned over. They have turned over from this  
24 specific group chat five pages of text messages, and in the  
25 pages we have here they are betting on whether or not this



1 CI, their informant, will produce brown sugar, fake heroin,  
2 for sure fake heroin, flush dope, fake gun, no buy money,  
3 lose the buy money, and then they have smiling emojis and  
4 laughing emojis laughing about it. And this was before the  
5 raid occurred, and this is the other vice officers.  
6 Abdullah is not on this chat. And we are asking that the  
7 defense turn over this entire group chat so we can see the  
8 sum of it, and we only just have five pages. These five  
9 pages were actually provided to us by a non-party witness  
10 who is on the vice team. And they agreed to provide us  
11 with some of the text messages although we don't have them  
12 yet, and we would like for you to order them to agree to  
13 provide the rest of the text messages, especially in light  
14 of what they show about the involvement and the knowledge  
15 of the vice officers at the time the raid occurred about  
16 the unreliability of this informant.

17 The other items in the Motion to Compel that we seek  
18 are emails, which we discussed that they have not provided  
19 yet. And then there was an officer named Officer Gaye who  
20 is represented here. And Officer Gaye testified at her  
21 deposition that she drafted warrants for Officer Oman  
22 Abdullah, and she testified that she drafted these warrants  
23 on occasions even when she knew or believed that the drugs  
24 that were the basis for the warrant, the basis for the  
25 charges, were fabricated drugs. And so we asked them to

1 produce the warrants that were drafted by Officer Gaye on  
2 these occasions, and we have not received those yet. Thank  
3 you.

4 **THE COURT:** Ms. Kibler, would you like to respond?

5 **MS. KIBLER:** Thank you, Your Honor. Dorothy Kibler for the  
6 City of Raleigh. I want to correct some information on the  
7 sequence of events. I also need to note that the Motion to  
8 Compel did not exactly see what we're talking about in  
9 court today. As to the agreements of the parties, I'll  
10 back up and talk about what the parties have attempted to  
11 do.

12 Discovery was initially served and responded by the  
13 City in September, September 30, 2022. The City provided  
14 its information. We had a meet and confer session in  
15 September over personnel records. We then had further  
16 discussions with the parties in the second meet and confer  
17 session in November, November 22nd of 2022 where the  
18 parties agreed what the City would produce in respond to  
19 the Request for Productions served on the city. And Your  
20 Honor, the City served responses to those requests that  
21 noted numerous objections. In attempting to work out the  
22 discovery dispute, I will say the City has done in advance  
23 of litigation trying to provide information and then as  
24 revealed in the ESI issues. So the City and the remaining  
25 parties conferred together on November 22nd and came up

1 with agreed search terms. And the City did what it agreed  
2 to search. It searched for text messages. It searched for  
3 emails on the agreed search terms, and it provided that to  
4 plaintiffs' counsel. The next thing that the City does,  
5 and this shows up on the email that was provided. It's a  
6 December 19, 2022 email. The City explained that the log  
7 sought by plaintiffs did not exist. The State has changed  
8 its warrant system. It has moved from what was called the  
9 NC Aware System. That was the system in place in 2020. It  
10 no longer exists. The City no longer has access. And the  
11 City explained that in writing to plaintiffs' counsel that  
12 we do not have that information.

13 Judge, you saw from our brief that in essence we  
14 argued to you and explained we did what we promised we  
15 would do. We met and conferred. The parties came up with  
16 search terms, and we agreed to it. We provided information  
17 on December 19. It was at 6:21 because the parties had a  
18 deposition that day. A little after five plaintiffs'  
19 Counsel the pending Motion to Compel. So from our  
20 perspective that Motion to Compel is moot because we did  
21 what we agreed. We did what the Plaintiffs in that Meet  
22 and Confer agreed that we would do, so the Motion to Compel  
23 that is pending before you should be denied on that basis.  
24 Because it was obvious that the parties had a dispute, the  
25 City didn't just stop at that point. Even though the

1 Motion to Compel should be denied, the City has attempted  
2 to work out continuing discovery. And on January 26th, the  
3 City brought the parties together, and we had another meet  
4 and confer. And this time, Judge, I did a better job  
5 documenting what the parties agreed. If Your Honor,  
6 please, I have a copy of essentially the agreements for the  
7 parties. I can hand that up if you would like.

8 **THE COURT:** Yeah, you can hand it up.

9 (Document handed up to Court)

10 **MS. KIBLER:** And at this point the parties are operating  
11 under the second set of agreements made January 26th. And  
12 the City is attempting to fulfill again what it agreed to  
13 provide. So the City has agreed to do some additional  
14 searches and negotiate about the search terms. What we are  
15 being asked to order the City now to do, which is provide a  
16 running text of all communications. And, Judge, what's  
17 important to know when the plaintiffs' counsel define the  
18 incident that they want, for which they want texts, it's  
19 not just May 20 or 21st of 2020. They want information  
20 from every single case the confidential informant,  
21 fraudulent informant, was involved in. And his work  
22 started in August of 2018 to the point at which he was  
23 fired, which is May 27, 2020. So this isn't an easy  
24 request, Your Honor. And, in fact, because we believe this  
25 is burdensome and inappropriate under the rules that we

1 cite, we provided the Court with a Declaration from a  
2 forensic examiner which is Robert Pike with the RPD who  
3 explains how burdensome it is to get the material together  
4 to have these piecemeal search terms come in, but still the  
5 parties have agreed to negotiate terms and to provide what  
6 essentially the City has agreed to do.

7 So we're before the Court arguing that you should deny  
8 the pending motion because the City has done what it  
9 committed to do. Anything more than that is unreasonable  
10 and burdensome. Other than what the City has again agreed  
11 in this follow-up meeting. So, Your Honor, we would ask  
12 that you deny the Motion to Compel, allow the parties to do  
13 what they negotiated to do and continue their efforts to  
14 try to come to a consensus and agreement to work out the  
15 discovery responses. Judge, we take our -- we want to  
16 provide information. We have provided information and  
17 we've done that through negotiations which is what the  
18 Court expects as opposed to asking the Court to micromanage  
19 the process. So I would simply ask that you deny the  
20 motion and allow the parties to continue their efforts.

21 **THE COURT:** Was this set in front of a magistrate? Is that  
22 why I took it away?

23 **MS. KIBLER:** Yes, sir, it was. I believe the magistrate  
24 had set only the extension of limited discovery.

25 **THE COURT:** Yeah, this is never going to a magistrate. All

1 right.

2 **MR. RUBERT-SCHEWEL:** Can I just raise two points about  
3 that, Your Honor? One is that discovery ends as you know  
4 in three weeks. We would ask the Defendants if they want  
5 to extend the discovery deadline or provide us --

6 **THE COURT:** I don't see any need to extend the discovery  
7 deadline.

8 **MR. RUBERT-SCHEWEL:** Well, we still don't have the text  
9 messages.

10 **THE COURT:** Well, you may not get them.

11 **MR. RUBERT-SCHEWEL:** So the reason why --

12 **THE COURT:** And you can't appeal that. You can only imbed  
13 it into the outcome of the case.

14 **MR. RUBERT-SCHEWEL:** -- is because they are alleging their  
15 informant was reliable.

16 **THE COURT:** Yeah.

17 **MR. RUBERT-SCHEWEL:** We need these to show his  
18 unreliability.

19 **THE COURT:** This case is ready for trial almost. This  
20 discovery is unnecessary probably. Surprised?

21 **MR. RUBERT-SCHEWEL:** Am I surprised?

22 **THE COURT:** Yes.

23 **MR. RUBERT-SCHEWEL:** No. But I would like to have the text  
24 messages to be able to prove our case.

25 **THE COURT:** All right. I'll give it full consideration.

1 So who else needs to be heard on something today?

2 **MS. KIBLER:** Your Honor, I think I know the Court's  
3 response, but we do have a different motion pending for an  
4 extension of the discovery deadline on the damages portion  
5 of the case. As Your Honor has pointed out, the only  
6 damages that the plaintiffs are claiming are psychological  
7 distress and future psychological distress. We don't have  
8 their medical records, and we need those to be able to show  
9 that --

10 **THE COURT:** You don't have a burden on that.

11 **MS. KIBLER:** Sure. They have produced reports from experts  
12 saying that they have PTSD. And so we would like to have  
13 the opportunity to show that there is no other evidence of  
14 that.

15 **THE COURT:** Have you deposed the Plaintiffs?

16 **MS. KIBLER:** We have.

17 **THE COURT:** Okay. There are ten of them?

18 **MS. KIBLER:** There are ten.

19 **THE COURT:** Okay. Who else has something? The City has  
20 been heard. The SEC officers have been heard. Abdullah,  
21 you've been heard.

22 **MR. BENTON:** Yes, Your Honor. We don't have any motions.

23 **THE COURT:** And who's Rolfe?

24 **MR. BLANCHARD:** Norwood Blanchard from the New Hanover  
25 County Bar. I've got Rolfe. Rolfe was the Sergeant of the

1 Vice Squad earlier. By happenstance he was on vacation the  
2 whole week that this stuff happened. He retired two weeks  
3 ago. So obviously any injunctive or declaratory relief  
4 would be moot with respect to him.

5 **THE COURT:** Is he subject to money damages?

6 **MR. BLANCHARD:** I suppose if they prevail on the claim he  
7 could be. It's kind of a weird claim they've got. This is  
8 a Franks versus Delaware issue for them. They claim that  
9 the warrant was based on fabricated information that  
10 Abdullah provided. And the way they try to tie my client  
11 in, despite him being on vacation for both the underlying  
12 buy here and the execution of the search warrant,  
13 essentially they're saying that he should have supervised  
14 Abdullah more closely in the past and should have told  
15 Abdullah in the past to fire this particular informant.

16 **THE COURT:** It's like applying to an individual manel type  
17 logic?

18 **MR. BLANCHARD:** This is about his liability. So the funny  
19 thing about my client, as I pointed out in mediation, is  
20 that they have to first establish liability for the  
21 underlying violation and then on top of that they're going  
22 to have to hit all those very difficult elements for  
23 supervisory liability for my guy who, you know, you've the  
24 causation problem with him being on vacation that week, but  
25 they are, you know, keeping him in, so I'll give you that.



1 But I don't have any motions for you today, Your Honor.

2 **THE COURT:** So what do you mean mediation? Where did that  
3 come from?

4 **MR. BLANCHARD:** Well, we've mediated the case a couple of  
5 times.

6 **THE COURT:** On whose say-so? Not mine. I mean I don't  
7 have anything to do with that, do I? Hello.

8 **MR. BLANCHARD:** Well, the Court ordered the --

9 **THE COURT:** I ordered mediation?

10 **MR. BLANCHARD:** I think we had a court hosted settlement  
11 conference.

12 **THE COURT:** The magistrate?

13 **MR. BLANCHARD:** Judge Jones, right. And then the last one  
14 was the real mediation you've got to do in every case.

15 **THE COURT:** Well, I'm not ordering anymore mediation. That  
16 was just trying to be nice.

17 All right, anything else?

18 Thank you. I'll give you orders on all of this.  
19 We'll be in recess.

STATE OF NORTH CAROLINA                    )  
                                                          ) C-E-R-T-I-F-I-C-A-T-I-O-N  
COUNTY OF PERQUIMANS                    )

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

<u><i>Sandra A. Graham, CVR-M</i></u>	<u><i>04/25/2023</i></u>
Sandra A. Graham, CVR-M	April 25, 2023
Court Reporter & Notary Public	
Notary Public Number: 19940140086	

S. Graham & Associates  
Court Reporting Services  
P.O. Box 385  
Elizabeth City, NC 27907-0385  
(252) 264-4646      [sgrahamassoc@gmail.com](mailto:sgrahamassoc@gmail.com)